

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
ANDERSON DIVISION

UNITRIN AUTO & HOME INSURANCE)
COMPANY,)

Plaintiff,)

vs.)

BOBBY ARFLIN, SHEILA G. ARFLIN)
AND ROSCOE POWELL, PERSONAL)
REPRESENTATIVE OF THE ESTATE)
OF JODY ADAMS POWELL)

Defendants.)

Civil Action No. _____

COMPLAINT
(Declaratory Judgment)
(Non-Jury)

The Plaintiff, Unitrin Auto & Home Insurance Company (hereinafter “Unitrin”), alleges as follows:

1. Unitrin is a corporation organized and existing under the laws of a state of New York with its principal place of business in Florida and is authorized by the State of South Carolina to transact business and issues policies in the state of South Carolina.

2. Defendants Bobby Arflin and Sheila G. Arflin were citizens and residents of Anderson County, South Carolina, when the incident, which is the subject of this Complaint, occurred. On information and belief, Sheila G. Arflin is a citizen and resident of Anderson County, South Carolina and Bobby Arflin is currently incarcerated at Broad River Correctional Institute in Columbia, South Carolina.

3. On information and belief, Roscoe Powell is the duly appointed Personal Representative of the Estate of Jody Adams Powell and is a citizen and resident of Anderson County, South Carolina.

4. Defendant Roscoe Powell has filed an action in the Anderson County Court of

Common Pleas against Defendant Bobby Arflin with Civil Action No. 2015-CP-04-00457 and has also filed a civil action against Unitrin with Civil Action No. 2015-CP-04-01606. A copy of the Summons and Complaints in both of these actions is attached hereto as Exhibit A.

5. Unitrin brings this action pursuant to 28 U.S.C. §2201 and Rule 57 of the Federal Rules of Civil Procedure.

6. The total amount in controversy exceeds \$75,000.00 exclusive of the interests and costs. This Court has jurisdiction due to diversity of citizenship of the parties pursuant to 28 U.S.C. §1332.

7. This Declaratory Judgment Action seeks to determine whether or not Defendants Bobby Arflin and Sheila G. Arflin are entitled to insurance coverage under a policy issued by Unitrin to the Arflins with respect to the lawsuits and claims by Defendant Powell arising out of an incident on December 11, 2013 when Jody Adams Powell was killed by Defendant Bobby Arflin. Defendant Bobby Arflin was convicted of killing Jody Adams Powell.

8. The subject policy issued by Unitrin had Policy Number HB 876286. A copy of the policy is attached hereto as Exhibit B.

9. Defendants Bobby Arflin and Sheila G. Arflin are named insureds under the terms, provisions, exclusions and conditions of the policy which are incorporated herein.

10. The Unitrin policy insured certain automobiles owned by the Arflins.

11. All of the terms, provisions, exclusions and conditions of the subject insurance policy apply, including, but not limited to, the following provisions:

INSURING AGREEMENT

A. We will pay damages for “bodily injury” or “property damage”
for which any “insured” becomes legally responsible because of an

auto accident We have no duty to defend any suit or settle any claim for “bodily injury” or “property damage” not covered under this policy.

B. “Insured” as used in this Part means:

1. You or any “family member” for the ownership, maintenance or use of any auto

EXCLUSIONS

A. We do not provide Liability Coverage for any “insured”:

1. Who intentionally causes “bodily injury” or “property damage.”

DEFINITIONS

A. Throughout this policy, “you” and “your” refer to:

1. The “named insured” shown in the declarations; and
2. The spouse if a resident of the same household.

12. Unitrin would allege that because all of the allegations against Bobby Arflin in the underlying action involved intentional acts and did not arise out of the ownership, maintenance or use of any insured vehicle under the policy, there is no coverage to the Arflins by the terms of the automobile policy.

13. Based on the facts and allegations in the underlying lawsuits, Unitrin has no duty to defend Bobby Arflin and there is no coverage for Bobby Arflin arising out of the events on December 11, 2013 when Bobby Arflin killed Jody Adams Powell.

WHEREFORE, Plaintiff prays that this Court inquire into the matters alleged and set forth above and issue a Judgment and Order declaring that Unitrin has no duty to defend or

indemnify Bobby Joe Arflin or Sheila G. Arflin for the claims arising out of the death of Jody Adam Powell, for the costs of this action and for such other and further relief as this Court deems just and proper.

MCANGUS GOUDELOCK & COURIE, L.L.C.

s/Doc Morgan, Jr.

Doc Morgan, Jr., Fed. Id. 3133

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August 11, 2016